

Pro Se 7 (Rev. 09/16) Complaint for Employment Discrimination

UNITED STATES DISTRICT COURT

FILED

for the

2022 JUN -1 P 3:42

Northern District of Alabama

U.S. DISTRICT COURT
N.D. OF ALABAMA

Case No.

5:22-CV-697-LCB

(to be filled in by the Clerk's Office)

Arcy Jagguire

Plaintiff

(Write your full name. No more than one plaintiff may be named in a pro se complaint.)

-v-

Polaris Huntsville

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

Jury Trial: (check one)



Yes



No

COMPLAINT FOR EMPLOYMENT DISCRIMINATION

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

Arcy Jagguire

Street Address

1108 London Pl SW Decatur

City and County

Al 35603

State and Zip Code

Telephone Number

931-809-1030

E-mail Address

arcyjagguire78@gmail.com

Pro Se 7 (Rev. 09/16) Complaint for Employment Discrimination

☒ Check here to receive electronic notice through the email listed above. By checking this box, the undersigned consents to electronic service and waives the right to personal service by first class mail pursuant to Federal Rules of Civil Procedure 5(b)(2), except with regard to service of a summons and complaint. The Notice of Electronic Filing will allow one free look at the document, and any attached PDF may be printed or saved.

6/1/2022
Date

A. Lagone
Participant Signature By mail only

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (*if known*). Attach additional pages if needed.

Defendant No. 1

Name Juan (Wyan) Turnline
 Job or Title (*if known*) Polaris Huntsville Supervisor
 Street Address 7049 Greenbrier Pkwy
 City and County Madison AL
 State and Zip Code Alabama 35676
 Telephone Number 256-822-3200
 E-mail Address (*if known*) _____

Defendant No. 2

Name Hanna Lugo
 Job or Title (*if known*) Manager
 Street Address 7049 Greenbrier Pkwy
 City and County Madison
 State and Zip Code Alabama 35676
 Telephone Number 256-822-3200
 E-mail Address (*if known*) _____

Defendant No. 3

Name Eric Swendsen
 Job or Title (*if known*) Manager
 Street Address 7049 Greenbrier Pkwy
 City and County Madison
 State and Zip Code Alabama 35676
 Telephone Number (256) 822-3200
 E-mail Address (*if known*) _____

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Defendant No. 4

Name

Job or Title *(if known)*

Street Address

City and County

State and Zip Code

Telephone Number

E-mail Address *(if known)*

Ashley Potts
 Planner
 7049 Greenbrier Pkwy
 Madison AL
 35676
 (256) 822-3200

C. Place of Employment

The address at which I sought employment or was employed by the defendant(s) is

Name

Street Address

City and County

State and Zip Code

Telephone Number

Polaris Huntsville
 7049 Greenbrier Pkwy
 Madison, AL
 Alabama 35754
 (256) 822-3200

II. Basis for Jurisdiction

This action is brought for discrimination in employment pursuant to *(check all that apply)*:

Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (race, color, gender, religion, national origin).

(Note: In order to bring suit in federal district court under Title VII, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)



Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621 to 634.

(Note: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you must first file a charge with the Equal Employment Opportunity Commission.)



Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112 to 12117.

(Note: In order to bring suit in federal district court under the Americans with Disabilities Act, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)



Other federal law *(specify the federal law)*:

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- ☐ Relevant state law (specify, if known):
- ☐ Relevant city or county law (specify, if known):

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. The discriminatory conduct of which I complain in this action includes (check all that apply):

- ☐ Failure to hire me. *I was demoted from being a group lead from "retaliated" from Juan which at the time was my supervisor. I asked for an investigation on this matter.*
- ☐ Termination of my employment. *To Eric Swendsen and Hanna Lugo and Eric still move me.*
- ☒ Failure to promote me. *I know that it asked for an investigation I should have been moved until after.*
- ☐ Failure to accommodate my disability.
- ☒ Unequal terms and conditions of my employment.
- ☒ Retaliation.
- ☐ Other acts (specify):

(Note: Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court under the federal employment discrimination statutes.)

B. It is my best recollection that the alleged discriminatory acts occurred on date(s)

4/19/2022

C. I believe that defendant(s) (check one):

- ☒ is/are still committing these acts against me.
- ☐ is/are not still committing these acts against me.

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D. Defendant(s) discriminated against me based on my *(check all that apply and explain):*

- ☒ race _____
- ☒ color _____
- ☒ gender/sex _____
- ☐ religion _____
- ☐ national origin _____
- ☐ age *(year of birth)* _____ *(only when asserting a claim of age discrimination.)*
- ☐ disability or perceived disability *(specify disability)* _____

E. The facts of my case are as follows. Attach additional pages if needed.

(Note: As additional support for the facts of your claim, you may attach to this complaint a copy of your charge filed with the Equal Employment Opportunity Commission, or the charge filed with the relevant state or city human rights division.)

IV. Exhaustion of Federal Administrative Remedies

A. It is my best recollection that I filed a charge with the Equal Employment Opportunity Commission or my Equal Employment Opportunity counselor regarding the defendant's alleged discriminatory conduct on *(date)*

6/1/2022

B. The Equal Employment Opportunity Commission *(check one):*

- ☐ has not issued a Notice of Right to Sue letter.
- ☐ issued a Notice of Right to Sue letter, which I received on *(date)* _____.

(Note: Attach a copy of the Notice of Right to Sue letter from the Equal Employment Opportunity Commission to this complaint.)

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C. Only litigants alleging age discrimination must answer this question.

Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding the defendant's alleged discriminatory conduct (*check one*):

- ☐ 60 days or more have elapsed.
☒ less than 60 days have elapsed.

V. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

VI. Certification and Closing

I've still not a group lead, They have yet to move me to a new group lead position, But yet still hiring new group leader

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 6/1/2022

Signature of Plaintiff

Printed Name of Plaintiff

Amy Taggare
Amy Taggare Amy Taggare

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B. For Attorneys

Date of signing: _____

Signature of Attorney _____

Printed Name of Attorney _____

Bar Number _____

Name of Law Firm _____

Street Address _____

State and Zip Code _____

Telephone Number _____

E-mail Address _____



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Ridge Park Place
1130 22nd Street South, Suite 2000
Birmingham, AL 35205
Intake Information Group: 800-669-4000
Intake Information Group TTY: 800-669-6820
Birmingham Direct Dial: (205) 651-7020
FAX (205) 212-2105
Website: www.eeoc.gov

DETERMINATION AND NOTICE OF RIGHTS

(This Notice replaces EEOC FORMS 161 & 161-A)

Issued on: May 12, 2022

To: Ms. A'rcy L. Jaggwe
1108 London Place SW
Decatur, AL 35603

Charge No: 420-2022-01804

EEOC Representative and email: JARED LING
Federal Investigator
jared.ling@eeoc.gov

DETERMINATION OF CHARGE

The EEOC issues the following determination: The EEOC will not proceed further with its investigation and makes no determination about whether further investigation would establish violations of the statute. This does not mean the claims have no merit. This determination does not certify that the respondent is in compliance with the statutes. The EEOC makes no finding as to the merits of any other issues that might be construed as having been raised by this charge.

NOTICE OF YOUR RIGHT TO SUE

This is official notice from the EEOC of the dismissal of your charge and of your right to sue. If you choose to file a lawsuit against the respondent(s) on this charge under federal law in federal or state court, **your lawsuit must be filed WITHIN 90 DAYS of your receipt of this notice.** Receipt generally occurs on the date that you (or your representative) view this document. You should keep a record of the date you received this notice. Your right to sue based on this charge will be lost if you do not file a lawsuit in court within 90 days. (The time limit for filing a lawsuit based on a claim under state law may be different.)

If you file a lawsuit based on this charge, please sign-in to the EEOC Public Portal and upload the court complaint to charge 420-2022-01804.

On behalf of the Commission,

SHERI GUENSTER

Digitally signed by SHERI
GUENSTER
Date: 2022.05.12 10:47:42 -05'00'

/for Bradley A. Anderson
District Director

Cc:

Jonathan Naples
jt.naples@polaris.com

Please retain this notice for your records.

Enclosure with EEOC Notice of Closure and Rights (01/22)

INFORMATION RELATED TO FILING SUIT UNDER THE LAWS ENFORCED BY THE EEOC

*(This information relates to filing suit in Federal or State court **under Federal law**. If you also plan to sue claiming violations of State law, please be aware that time limits may be shorter and other provisions of State law may be different than those described below.)*

IMPORTANT TIME LIMITS – 90 DAYS TO FILE A LAWSUIT

If you choose to file a lawsuit against the respondent(s) named in the charge of discrimination, you must file a complaint in court **within 90 days of the date you receive this Notice**. Receipt generally means the date when you (or your representative) opened this email or mail. You should **keep a record of the date you received this notice**. Once this 90-day period has passed, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and the record of your receiving it (email or envelope).

If your lawsuit includes a claim under the Equal Pay Act (EPA), you must file your complaint in court within 2 years (3 years for willful violations) of the date you did not receive equal pay. This time limit for filing an EPA lawsuit is separate from the 90-day filing period under Title VII, the ADA, GINA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA or the ADEA, in addition to suing on the EPA claim, your lawsuit must be filed within 90 days of this Notice **and** within the 2- or 3-year EPA period.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Filing this Notice is not enough. For more information about filing a lawsuit, go to <https://www.eeoc.gov/employees/lawsuit.cfm>.

ATTORNEY REPRESENTATION

For information about locating an attorney to represent you, go to:
<https://www.eeoc.gov/employees/lawsuit.cfm>.

In very limited circumstances, a U.S. District Court may appoint an attorney to represent individuals who demonstrate that they are financially unable to afford an attorney.

HOW TO REQUEST YOUR CHARGE FILE AND 90-DAY TIME LIMIT FOR REQUESTS

There are two ways to request a charge file: 1) a FOIA Request or 2) a Section 83 request. You may request your charge file under either or both procedures. EEOC can generally respond to Section 83 requests more promptly than FOIA requests.

Since a lawsuit must be filed within 90 days of this notice, please submit your request for the charge file promptly to allow sufficient time for EEOC to respond and for your review. Submit a signed written request stating it is a "FOIA Request" or a "Section 83 Request" for Charge Number 420-2022-01804 to the District Director at Bradley Anderson, 1130 22nd Street South Suite 2000

Birmingham, AL 35205.

You can also make a FOIA request online at <https://eeoc.arkcase.com/foia/portal/login>.

Enclosure with EEOC Notice of Closure and Rights (01/22)

You may request the charge file up to 90 days after receiving this Notice of Right to Sue. After the 90 days have passed, you may request the charge file only if you have filed a lawsuit in court and provide a copy of the court complaint to EEOC.

For more information on submitting FOIA Requests and Section 83 Requests, go to:
<https://www.eeoc.gov/eeoc/foia/index.cfm>.



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FAX (205) 212-2105
Website: www.eeoc.gov

PRE-DETERMINATION INTERVIEW WITH CHARGING PARTY AT INTAKE
SUMMARY SHEET

PDI Date: April 29, 2022

Spoke to: CP A'Rcy Jaggwe

Charge: **420-2022-01804** *A'Rcy Jaggwe v. Polaris Industries, Inc.*

A pre-determination interview was conducted on April 29, 2022 with A'Rcy Jaggwe (CP) during a scheduled intake interview. After CP provided information to file a charge of discrimination, we discussed the following summary of the evidence obtained to this point and my recommendation for the listed case.

Review of Charging Party's (CP) allegations and Respondent's (R) defense:

CP stated she is a member of a protected class: Black. She was hired by the R on June 23, 2021 as a Material Equipment Driver. She was then promoted to Group Lead in November of 2021. She was later demoted to Material Equipment Handler in April 2022.

PCP stated that she was retaliated against for reporting toxic work behavior within R. She alleges that she was also subjected to color discrimination from her current supervisor. However, original report to the plant manager does not consist of issues under EEOC's jurisdiction. Additionally, the manner in which she reported the concerns was not in accordance with procedures set forth to enter into protected activity.

Respondent statement is not applicable, PDI conducted during intake,

I advised CP that in order to prove a violation of intentional discrimination (discharge / discipline), evidence must show:

- (1) CP is a member of a protected class;
- (2) CP was performing at a satisfactory level;
- (3) CP was discharged or otherwise disciplined;
- (4) CP was replaced by an employee outside the protected group; *or*
- (5) Others performing similarly and in a different protected group were not discharged / disciplined; *or*
- (6) Other factors indicate CP was treated differently because she was in a protected group.

I then advised CP that in order to prove a violation of discriminatory retaliation, evidence must show:

- (1) CP opposed what CP reasonably and in good faith believed to be an unlawful employment practice, or CP participated in the EO process,
- (2) R subjected CP to an adverse action that would likely discourage a reasonable person from opposing discrimination or participating in the EO process, and
- (3) There was causal connection between CP's protected activity and the adverse treatment.

Evidence obtained during the investigation showed that:

- CP is a member of a protected class (Black, Female)
- CP was performing at a satisfactory level
- CP was disciplined by demotion from a supervisory position
- CP had not engaged in protected activity covered by the EEOC
- CP stated during intake that the demotion / discipline was due to an argument that she had with her manager's girlfriend
- No evidence was provided that indicated CP was treated differently because of her protected group.
- No evidence was provided that indicated CP was retaliated against.

After thorough investigative review, I did not find elements for a *prima facie* case of intentional discrimination (discharge / discipline). Therefore, pursuant to **29 C.F.R. 1601.19(a)** and **1601.28(b)** I recommend dismissal as a **No Cause finding**, with issuance of "Notice of Right to Sue".

I advised that CP would be issued a NRTS and had 90 days to file in federal court.

Jared O. Ling
Federal Investigator
U.S. EEOC